
Planning Application no. SL/2020/0908

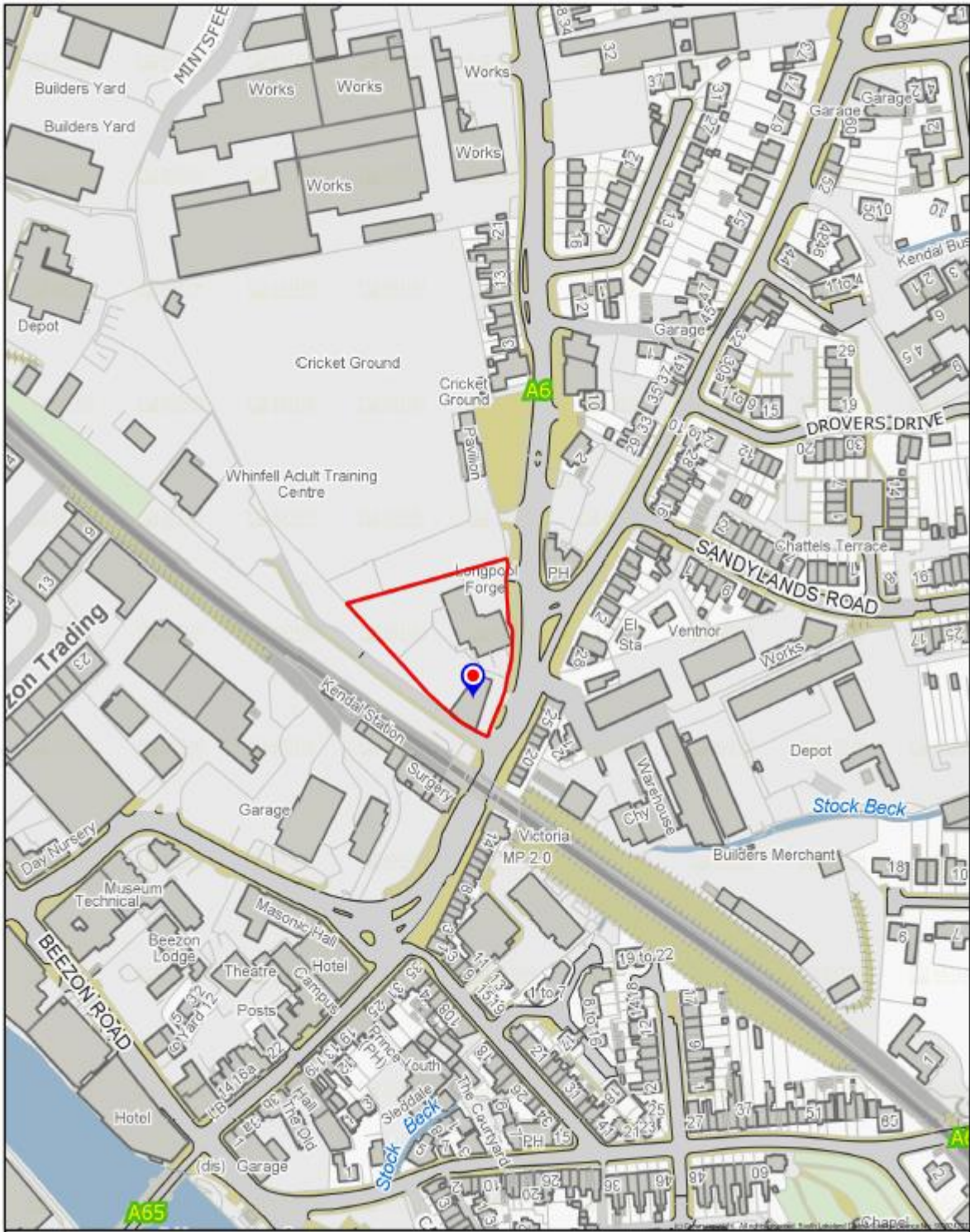
Porsche Centre, Longpool, KENDAL,
LA9 6BX

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Contents

Planning application no. SL/2020/0908	1
Porsche Centre, Longpool, KENDAL, LA9 6BX	1
Summary	3
Recommendation	4
1.0 Description and proposal	4
Site description	4
Proposal	5
2.0 Planning history	6
3.0 Consultations	7
South Lakeland District Council	13
Neighbours / third parties	16
4.0 Relevant planning policies	17
South Lakeland Core Strategy	17
South Lakeland Land Allocations Development Plan Document	17
South Lakeland Development Management Policies Development Plan Document (DMDPD)	18
Other material considerations	18
5.0 Assessment	19
The principle of development	19
Habitat creation, urban greening and climate change	20
Affordable housing	21
Accessible and adaptable homes	27
Designing out crime	27
Contributions towards health	27
Flood risk	28
Character of the area	32
Living conditions	34
Access and parking	36
Trees	39
Biodiversity	39
6.0 Conclusion	40
7.0 Recommendation	41



Summary

SL/2020/0908

PARISH: Kendal

Porsche Centre, Longpool, KENDAL, LA9 6BX

PROPOSAL: Erection of retirement living apartments with associated communal facilities, landscaping and on-site car-parking.

APPLICANT: McCarthy and Stone Retirement Lifestyles Ltd.

COMMITTEE DATE: 26 August 2021

CASE OFFICER: Charlotte Pinch

This is an application seeking full planning permission for a development of 55 retirement living apartments on the site of the Porsche car centre, Longpool, Kendal. Retirement living accommodation is one of a number of types of specialist housing recognised as meeting the diverse needs of older people.

The site is within the development boundary of the town and adjoins Kendal Conservation Area. The site is largely within Flood Zone 2, at highest risk of flooding from rivers.

A significant section of the report concentrates on the applicant's contention that the inclusion of affordable housing would make the development unviable. Having subjected the applicant's viability case to two separate reviews, this argument is accepted.

The application raises a number of other complex and interrelated issues, including local concerns which focus mainly on access, parking and the mass of the building. Having judged these issues against the relevant development plan policies and other material considerations, including the National Planning Policy Framework and the associated Government Planning Practice Guidance, the application is recommended for approval, subject to a number of conditions.

Recommendation

The application is recommended for approval subject to conditions.

1.0 Description and proposal

Site description

1.1. The application site extends to an area of 0.38 hectares, adjacent to the A6 Longpool. Kendal town centre is 0.25 miles to the south west and as such the site is within the development boundary of the town.

- 1.2. The site is positioned to the north east of Kendal Train Station and train line, to the south east of Kendal Cricket Club and the west of the A6 Longpool. The boundary of the Kendal Conservation Area is located to the south west of the site on the opposite side of the railway line.
- 1.3. The site is currently occupied by a car showroom and garage of Parker and Parker Porsche dealership. A new showroom outside of the district, near Carnforth, has been built and the dealership will be relocating there shortly. The existing buildings are of single storey nature, steel frame construction with brick elevations, set beneath a combination of flat and pitched roofs.
- 1.4. The site forms part of an existing employment site (Mintsfeet, Kendal) as defined on the South Lakeland Local Plan policies map and is currently safeguarded for employment use purposes. However the current uses are defined as sui-generis, and do not fall within the 'employment' use definition category (B2 and B8).
- 1.5. The ground levels of the site fall from north to south, by approximately 2m. The site located within Flood Zone 2, with closest watercourse being Stock Beck 100m to the south east of the site. The River Kent is located 250m to the south west of the site and flows south through Kendal.
- 1.6. The character of the surrounding is mixed, with residential commercial and leisure uses all within close proximity. To the immediate north of the site is Kendal Cricket Club, a leisure facility, to the east on the opposite side of the A6 is the Duke of Cumberland Public House and the to south east is a terraced row of residential dwellings, with some small commercial shop premises further north of A685. The site is bounded to the south west by the train line and Kendal Train Station.
- 1.7. The A6 Shap Road is a main route into Kendal, leading north directly out of the town towards Shap, Penrith and the M6 motorway. Parking along the A6 in this area is generally restricted. There are no designated public footpaths which run through the site.

Proposal

- 1.8. The application proposes the demolition of the existing Porsche car sales garage and redevelopment of the site within a new building comprising 55 'retirement living apartments', based on a V-shape footprint. The long elevation on the eastern boundary facing Longpool will comprise of 3 storeys of accommodation, whereas the north western elevation facing the Cricket Club will have 4 storeys of accommodation. The ground floor of the habitable accommodation is proposed to be set at a level of 47.90m AOD. This level ensures that the habitable accommodation is safe from flooding.

1.9. The proposed schedule of accommodation is as follows:

Floor	No. of bedrooms		Total
	1	2	
Ground	10	5	15
First	11	6	17
Second	11	6	17
Third	1	5	6
Totals	33	22	55

1.10. The ground floor also had a owner's lounge, communal reading room on the first and second floor, with a guest suite on the third floor.

1.11. The internal arrangement of the building employs a typical configuration for this type of development: a double bank of apartments separated by a central corridor. This leads to a deep floor plan, which in this case is spanned by a double-pitch roof on both principal wings. The mass of the building is broken up into a number of distinct elements, with significant breaks in the ridgeline on the eastern elevation with a transition between pitched roof gables, to a short flat roof element, for the ridge to rise again, breaking up the long roadside elevation. External materials are listed to be: Lakeland Green Wienergerger roof tiles, powder coated aluminium cladding in grey, K-Rend roughcast and smooth render in Limestone White for the elevations, in addition to random laid facing stone and Grey UPVC windows.

1.12. Vehicular access is proposed from Longpool, through an existing access point. All other existing vehicular access points are to be closed off. 37 parking spaces are proposed, sited to the north of the building alongside the boundary with Kendal Cricket Club. There is one principal pedestrian access to the building, from the east on Longpool.

1.13. There is very little existing vegetation or soft landscaping on the site. The area of the site to the south west of the building, forming a courtyard, is identified as landscaped gardens.

2.0 Planning history

SL/2008/0605 – Extension to car showroom/workshop.

Approved with Conditions. 2008.

SL/2011/0624 - Renewal of extant planning application.

Approved with Conditions. 2011.

SL/2008/0605 (Extension to car showroom/workshop).

Approved with Conditions. 2011.

3.0 Consultations

The application was originally publicised in 14 December 2020. It was re-publicised on 09 June 2021 following design amendments and further information in relation to consultee comments, including CCC Highways and LLFA and the Environment Agency.

Environment Agency

22nd December 2020

The conceptual site model outlines the potential pollutant linkages from contaminants in soils highlighting the underlying Secondary Aquifer as a sensitive receptor. Despite this being the case, the ground investigation omitted to sample groundwater or undertake leachate analysis when there was a known intention for soakaway drainage within filled ground.

This failure to knowingly avoid full investigations for risk assessment to Controlled Waters is based on unqualified judgement pending results of soil testing. It is fortunate there is no record of petroleum storage underground and an assumption that diesel was dispensed from an above ground tank.

In the absence of a sampling strategy, sample evidence of groundwater or leaching analysis we disagree with the assessment of development being a low risk to Controlled Waters. There is recognition that concentrations of contaminants in soils tested are unlikely to result in a high levels of soluble contaminants. However, the proposal to discharge to soak away requires evidence of impact for mobilisation of pollutants on groundwater resources. Therefore, further work is required to determine the leaching potential at the proposed discharge sites. Alternatively, we would recommend an objection to the soak away scheme and re-evaluation of the consequences for drainage.

The hot spot of PAH contamination to be excavated should be regarded as a waste. Its disposal should comply with Waste Regulations and removal from site is recommended. We request the inclusion of the following condition in any planning approval:

Flood risk

The planning application is accompanied by a Flood Risk Assessment (FRA) prepared by Stantec (referenced: 41671/4001, Rev A; dated: 11/11/2020).

We have reviewed the FRA in so far as it relates to our remit and we are satisfied that the development would be safe without exacerbating flood risk elsewhere if the proposed flood risk mitigation measures are implemented. The proposed development must proceed in strict accordance with this FRA and the mitigation measures identified as it will form part of any subsequent planning approval. Any proposed changes to the approved FRA and / or the mitigation measures identified will require the submission of a revised FRA.

Whilst it is noted that the FRA does not apply a climate change allowance to the modelled flood extents, the proposed finished floor level of 47.9mAOD have been set higher than the observed flood levels during Storm Desmond 2015 (47.88mAOD) and this is a satisfactory approach.

15th June 2021

Contaminated land

No further evidence from sample analysis has been provided to address Environment Agency concerns from previous correspondence. The ARC Phase 2 Ground Investigation Report of 2017 has been resubmitted without any revision and comments. These were outlined in our previous consultation response dated 22 December 2020 (ref. NO/2020/113183/01-L01) and are therefore still applicable.

3rd August 2021

We have reviewed the addendum report for this site by Arc Environmental dated 23 July 2021 (letter report) ref no: 21-588.01L and can comment as follows:

The appropriate data for calculating the impacts are correct and we note that the assessment results in the following conclusions.

From the results of the levels of contamination at boreholes BH1, BH6, BH7 and BH8 are considered to represent a risk to shallow groundwater. Where made ground is present in soft landscaping below the southern portion of the site (roughly delineated by these borehole positions) it will require either treatment (soil fixing or similar to lock in any contamination and prevent / significantly reduce leaching) or localised removal (soft landscaping only). Where buildings and permanent hardcover are proposed the risk of leaching is significantly reduced.

We would agree that a Remediation Strategy will need to be prepared and agreed with the Local Authority / Environment Agency providing an options appraisal and outlining the methodology of the chosen remedial action. Some further delineation works are likely to be required to confirm the extent of leachable hydrocarbons more accurately, although we are confident this will be limited to below the southern site area.

Natural England

16th December 2020

No comments to make on this application.

16th June 2021

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal. The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Local Highway and Lead Local Flood Authority (Cumbria County Council)

18th January 2021

We recommend that this application is not approved without provision of a sustainable drainage system. We also request further detail on the proposed changes to the access.

A pipe and gully drainage system has been proposed which does not provide the multifunctional benefits that are required by national and local planning policy. The ground profile looks to be good for infiltration but which is top of the drainage hierarchy but the FRA has not considered this option and proposes to discharge surface water runoff into the sewer. The FRA proposes to discharge surface water runoff at a rate of 33l/s, a rate which has not been explained, but this is likely to be far in excess of the equivalent greenfield rate. The proposal does not consider water quality as per The SuDS Manual Chapter 26. Much of the surface water runoff could be eliminated by use of permeable surfaces.

The proposal could improve an existing access into the site at a busy and complex series of junctions and we wish to review further information detailing the proposed changes to the access points and the impact that this will have on the shared footway/cycleway that the access will cross. Multiple vehicular access points into the site are proposed reduce to one which is a positive for highway safety. A right turn facility would need to be provided into the site, this could be accommodated within the existing road markings. Pedestrian access would be improved if pedestrian access was permitted from the south of the site on the desire line towards the town centre. The proposed works to the existing accesses will need to be done under a section 278 agreement along with the changes to the road markings.

This proposed development is located near to Kendal town centre and has potential to be served by sustainable modes of transport. The proposed users are typically less likely to use the private car than the population at large and the transport study seems to show that the proposed use of the development will generate fewer trips and lower demand for parking than the existing use as a car showroom and garage (the data for the existing use hasn't been provided but the argument is reasonable). The users of the proposed development are more likely to be pedestrians

The parking provision is in accordance with our design guide for the *sheltered housing wardened* category of use which this proposal most closely resembles. We would still have a concern that the permitted use class could allow more intensive use by cars should the business model change in the future and we would recommend a condition to ensure that this cannot happen.

We recommend that this application is not approved without provision of a sustainable drainage system. We also request further detail on the proposed changes to the access.

2nd August 2021

We recommend that this application is not approved without provision of a sustainable drainage system.

A sustainable drainage system (SuDS) is required by the NPPF and, as a brownfield site, run off must discharge at as close as reasonably practicable to the greenfield rate for the site.

A pipe and gully drainage system is proposed, which does not provide the multifunctional benefits of SuDS that are required by national and local planning policy, and a short written response to our previous comments envisages that porous paving will be used for the car parking areas and this is welcomed. Porous paving is one of a number of space efficient SuDS techniques that are available so it should be possible to meet the requirements within the proposed layout, but the layout must be revised to accommodate SuDS if necessary.

To be able to give informed comments on flood risk and drainage at this stage of planning we need to review the proposed drainage strategy, including layout, backed up by calculations showing that the design meets the SuDS Technical Standards and showing that appropriate standards for water quality are achieved as per The SuDS Manual Chapter 26. Details of the necessary maintenance actions and responsibilities should be available.

The proposal will reduce multiple vehicular access points into the site to one access point with a right turn facility in the highway, which is a positive for highway safety. A raised platform is proposed across the site access to denote priority for pedestrians and cyclists, providing continuity to the shared footway/cycleway that the access will cross. Detail of these changes has not been provided so this should be secured by condition, the detail to be provided should include a Road Safety Audit to assess the proposed changes. The proposed works to the existing accesses need to be done under a section 278 agreement along with the changes to the road markings.

The users of the proposed development are more likely to travel as pedestrians than is typical. Pedestrian access would be improved if pedestrian access was permitted from the south of the site on the desire line towards the town centre. We would recommend a condition to ensure that a more intensive use by cars than the proposed use cannot happen.

Countryside Access Officer (Cumbria County Council)

15th June 2021

There are no recorded public rights of way in the vicinity of the development area.

Network Rail

19th January 2021

The developer is to submit directly to Network Rail, a Risk Assessment and Method Statement (RAMS) for all works to be undertaken within 10m of the operational railway under Construction (Design and Management) Regulations, and this is in addition to any planning consent. Network Rail would need to be re-assured the works on site follow safe methods of working and have also taken into consideration any potential impact on Network Rail land and the existing operational railway infrastructure. Builder to ensure that

no dust or debris is allowed to contaminate Network Rail land as the outside party would be liable for any clean-up costs. Review and agreement of the RAMS will be undertaken between Network Rail and the applicant/developer.

The applicant must ensure that there is sufficient vehicle parking for residents and visitors so that vehicles do not park in such a way that they prevent access or egress to Kendal Railway Station or impact upon vehicle parking facilities in and around the station.

The council and the developer (along with their chosen acoustic contractor) are recommended to engage in discussions to determine the most appropriate measures to mitigate noise and vibration from the existing operational railway to ensure that there will be no future issues for residents once they take up occupation of the dwellings.

10th June 2021

Network Rail's comments of the 19th January 2021 remain unchanged.

Kendal Town Council

21st December 2020

No material objections.

Committee is in agreement with the principle of this application and the positive use of the site for this style and quality of development and feels it is an important addition to this part of Kendal. Despite this, the committee discussed various matters for ongoing consideration.

We await responses from Lead Flood Authority. A response from Highways will be monitored re the increase to traffic and the requirements for better pedestrian access, both to the property and from the property into the centre of town. This is a potentially difficult junction and work needs to be done to ensure its safety for all people using the apartments and to encourage non-car travel into town as per the stated aims of the applicants. We therefore reserve our right to enter into dialogue further, depending on the above reports, before the stated deadline.

The size and especially the height of the application were discussed, particularly in contrast to the surrounding urban build which is largely of 2 stories. This was noted but attention was drawn to similar heights of buildings evidenced in the application and was not felt to constitute a material objection.

The Committee also underline the questions raised by the Street Scene Safety Adviser for clear areas of movement and turning.

It was underlined that we trust SLDC will work alongside developers to facilitate easier access to the town centre by pedestrians, mobility scooters and such like.

We support the letter written with regard to swift boxes as well as hoping to ensure other gains in biodiversity for the site.

21st June 2021

No material objections.

There was considerable debate about the extent of any contribution that could be made to offset the lack of an affordable element to this development. The Committee supported the comments made by SLDC officers concerning this and other matters, finding it difficult to understand a justification for no contribution, given that this would appear to be in direct contravention of stated SLDC policies. The Committee also wished to reiterate its previous response to the application and support the comments on crime prevention and transport. It also emphasised the necessity for reducing the impact of light pollution and making a net contribution to biodiversity.

United Utilities

23rd June 2021

In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.

Following our review of the submitted Flood Risk Assessment, Project Ref: 41671/4001, Rev: A, Dated July 2018, we can confirm the proposals are acceptable in principle to United Utilities. However, we do not have sufficient information on the detail of the drainage design.

With this in mind, we request that a surface water drainage condition is applied.

Cumbria Police (Crime Prevention Design Adviser)

4th January 2021

No objections. Makes two recommendations of changes which should be made as opportunities which could be exploited by an intruder:

- No windows to habitable rooms in South facing elevation (Kendal Station)
- Deep recess at window (between Refuse store and Apartment 13).

Friends of the Lake District

15th December 2020

As part of the Cumbria Dark Skies project, Kendal and Oxenholme are already shown to be an area where light pollution is high and it is important that this is not further exacerbated by the new development.

Overall pleased with the absence of excessive external lighting which can be all too prevalent in new developments, however would recommend that no upward lighting outdoor fixtures are implemented.

Support Kendal Swift's Group recommendation to incorporate swift nesting boxes.

Kendal Civic Society

13th July 2021

We are pleased that the design of the proposal has been changed to reduce the apparent mass and visible roof of the building but it is still challenging in this location. We are also pleased that the entrance 'feature' tower has been modified and although bland better ties in with the rest of the building. Other than the above our previous comments on design and biodiversity still stand.

South Lakeland District Council

Strategy

22nd February 2021

The proposal raises a number of policy issues and concerns as detailed and summarised below:

- Lack of affordable housing provision and therefore contrary to provisions of Policy CS6.2
- Lack of clarity whether provisions of Policy DM11 have been met
- The extent to which this proposal offers a suitable mix and range of housing type when considered against levels of current housing need (Policy CS6.2)
- The scale/massing of development being of a nature that would dominate the area, introducing issues of concern with respect to local amenity, alongside whether it fully maximises opportunities to provide a high quality form that respects local character (Policy DM2)
- The extent to which the scheme is resilient to future flood risk impacts (Policy DM6)
- The potential impacts the scheme may have in terms of enabling additional development to come forward in the wider area (Policy DM24/Kendal Town Centre Strategy)
- The extent to which full consideration has been given to the potential for a range of mix of uses on the site; rather than solely housing.

In conclusion, the scheme should be revisited/reviewed in order to demonstrate the relevant policies and requirements outlined in this response have been satisfactorily addressed and met.

Public Protection

15th January 2021

Contaminated Land

Having reviewed the documents entitled 'Phase 1: desk top study report' (dated 06/06/2017) and 'Phase 2: Ground Investigation Report' (dated 18/09/2017) [produced by 'Arc Environmental'] I can confirm that the reports, methodology, analysis, conclusions and recommendations are reliable in my professional opinion.

Noise

Having reviewed the document entitled 'Noise and Vibration assessment for planning (dated 14/06/2018) [Produced by SRL]' I can confirm that the report, methodology, calculations, conclusions and recommendations are reliable in my professional opinion.

Advisory – Laminate Floor Noise

As the use of laminated flooring could contribute to structure-borne noise transmission causing a detrimental impact to the amenities of vertically adjacent residents, the installation of a hard floor finish such as laminate or hardwood overlay, ceramic tiles or bare floorboards in any room in the proposed development [excluding rooms on the ground floor], is not advised. The use of carpets, carpet tiles, foam backed linoleum and any other soft floor finish is acceptable. Floor coverings should be fitted with a good quality underlay, and an acoustic underlay considered if appropriate.

Advisory – Sound Insulation

I have not commented on matters relating to sound insulation as I assume that Building control will ensure that the Building Regulations, Approved Document E is applied.

Principle Specialist (People)

14th January 2021

Need and Demand

The 2017 Strategic Housing Market Assessment (SHMA) identifies a need for 153 new affordable dwellings annually up to 2036 (3060 in total over the period 2016 to 2036) of which 67 dwellings are needed in the Kendal Housing Market area annually (1340 in total over the period 2016 to 2036). The evidence shows that the need is more weighted towards smaller 1-2 bedroom homes, though there is still a need for larger 3+ bedroom homes. The SHMA identifies the need for 72 specialist (sheltered, extra care, enhance sheltered) housing units for older people annually during the period 2016-36 based on the significant increase in the over 75s age range. Cumbria County Council's evidence of need for extra care housing shows a shortfall of 500 extra care housing units in South Lakeland. A shortfall of 164 units was identified in Kendal from 2016 to 2025.

Work has started on a 104 unit extra care scheme at Oxenholme and Wainwright Court is also in close proximity to this proposal which is also an extra care scheme. This may have an impact on the demand for the Scheme.

The Housing Register as of September 2020 shows a total of 1642 households who express a need to live in Kendal. Of these, 1015 need a 1 bedroom home, 428 need a 2 bedroom home and 199 need a 3+ bedroom home. There are 953 applicants who express the need for either a ground floor flat or bungalow (NB applicants can choose more than one option) and there are 18 applicants who need accessible accommodation.

The Older Persons' Housing Strategy supports the need for a range of housing options that will help older people to downsize into more suitable accommodation freeing up family sized homes. CS6.2 of the Core Strategy requires a mix of house sizes and types. The mix proposed is for retirement living apartments for older people (sixty years of age and/or partner over fifty five years of age) comprising 39 one bedroom and 25 two bedroom homes.

In support of the planning application, the applicant has submitted a study on need and demand that references a range of information sources including planning policy documents, the SLDC Local Plan Development Management Policies DPD 2019, the Housing Strategy 2016 to 2025, the Older Persons' Housing Strategy, The Health and Wellbeing Strategy 2019 – 2029, the County Council's Extra Care and Supported Living Strategy 2016 to 2025, Cumbria Housing Statement and some other strategic documents/evidence based studies evidencing the aging population. The study refers to the RHG model in analysing potential demand and the Contact Consulting Model. In anticipating levels of care or support needs among older people. This is generally based on 'norms' or assumptions for people who have assessable support and care needs that 251 per thousand people aged 75 and over would benefit from a move to specialist housing. Tenure split in the Contact Consulting model is 2:1 sale to rent and for enhanced sheltered it is 50:50 sale to rent. The study submitted uses 66% home ownership among households aged 75 and over and from 2011 Census data. It details that there is limited supply based on available sale properties at the time. The RHG model demonstrates a shortfall of 793 sheltered for sale units including a requirement for shared equity. The two models detail that there is a shortfall of between 152 units to 215 units of retirement housing for sale or shared equity in Kendal.

Policy requirements

CS6.3 of the Core Strategy requires that on sites of 9 or more, no fewer than 35% should be affordable homes. The proposal is for 55 units of accommodation with 33 one bedroom units and 22 two bedroomed units. This would require 19 affordable units for a policy compliant scheme. The submitted Planning Statement does not reference CS6.3. The proposal is non-policy compliant with CS6.3 with no affordable provision being proposed either on or off site. Planning Policy colleagues will respond in relation to DM11 compliance.

The proposed scheme whilst meeting a need for older people's accommodation evidenced by the SHMA is non-policy compliant in terms of CS6.3 and it is not clear that viability evidence has been submitted and considered.

Street Scene

14th December 2020

Street Scene would like confirmation that the swept path analysis for the turning head, as shown in the Design Access Statement is for a 26 tonne refuse vehicle with an overall wheelbase of 5.2m.

What measures will be in place to ensure the area will be clear for safe vehicular movements and operation of machinery whilst the collection of waste and recycling takes place within the development.

The bin store should be designed in accordance to 'Waste management in buildings – Code of Practice BS 5906:2005'. Should the bin store be deemed unsafe for operatives to collect from, it will be the responsibility of the development to present waste and recycling outside the bin store.

Should vehicular access be unacceptable or unsafe, it will be the developments responsibility to present waste and recycling at the curtilage nearest the road.

Neighbours / third parties

We have received 12 letters of representation. 6 letters were in support of the proposal, 3 letters of comment and 3 letters of objection. The objections and concerns cover the following issues:

Principle of development

No affordable or social housing provision.

Loss of employment opportunities over the existing situation, a mixed-use housing and employment development would be better.

Access and parking

Should seek to improve the pedestrian connections on the site and to the town centre.

Design

Height, scale and design of the proposed building is inappropriate and lacks local distinctiveness.

Significantly out of scale compared to buildings within the immediate context.

Large dominating blank elevations.

Overbearing and out of scale in terms of its bulk.

Visual appearance will adversely affect the character of the neighbourhood.

Amenity

The use of up-lighting on the elevations is not appropriate as it will generate light pollution.

Biodiversity

Lack of significant net gain in biodiversity on the site.

Request the installation of fifty internal swift nest bricks to create a legacy of biodiversity net gain, as a condition.

4.0 Relevant planning policies

South Lakeland Core Strategy

4.1. The following Core Strategy policies are considered relevant to the proposal:

- CS1.1: Sustainable Development Principles
- CS1.2: The Development Strategy
- CS2: Kendal Strategy
- CS6.2 – Dwelling mix and type
- CS7.1: Meeting the Employment Requirement
- CS7.2: Type of Employment Land Required and Sectoral Split
- CS8.1: Green Infrastructure
- CS8.2: Protection and Enhancement of Landscape and Settlement Character
- CS8.4: Biodiversity and Geodiversity
- CS8.7: Sustainable Construction, Energy Efficiency and Renewable Energy
- CS8.8: Development and Flood Risk
- CS8.10: Design
- CS10.2: Transport impact of new development

South Lakeland Land Allocations Development Plan Document

4.2. The following Land Allocations DPD policies are considered relevant to the proposal:

- LA1.0: Presumption in favour of sustainable development
- LA1.1: Development boundaries

South Lakeland Development Management Policies Development Plan Document (DMDPD)

4.3. The following DMDPD policies are considered relevant to the proposal:

- DM1: General Requirements for all development
- DM2: Achieving Sustainable High Quality Design
- DM4: Green and Blue Infrastructure, Open Space, Trees and Landscaping
- DM5: Rights of Way and other routes providing pedestrian, cycle and equestrian access
- DM6: Flood Risk Management and Sustainable Drainage Systems
- DM7: Addressing Pollution, Contamination Impact and Water Quality
- DM8: High Speed Broadband for New Developments
- DM9: Parking Provision, new and loss of car parks
- DM11: Accessible and Adaptable Homes

Other material considerations

National Planning Policy Framework (2021)

4.4. The following sections are considered relevant to this application.

2. Achieving sustainable development
4. Decision-making
8. Promoting healthy and safe communities
9. Promoting sustainable transport
11. Making effective use of land
12. Achieving well-designed places
14. Meeting the challenge of climate change, flooding and coastal change

Cumbria Development Design Guide

Affordable Housing Planning Policy Guidance Note March 2020

5.0 Assessment

The principle of development

Proposed use

- 5.1. Although proposed as accommodation for a specific age group, it is explicit in the application that the apartments will fall within Class C3 of The Town and Country Planning (Use Classes) Order 1987 (England) (as amended), encompassing use as a dwellinghouse, meaning that development plan policies relating to residential development will apply. However, it may be appropriate to enforce the proposed age restriction if that has the potential to mitigate impacts that might otherwise result in a refusal of planning permission.
- 5.2. The Porsche Centre is within the settlement limits of Kendal, one of two Principal Service Centres identified by policy CS1.2 (The Development Strategy) of the Core Strategy as being the focus for the bulk of new housing and employment development.
- 5.3. Also of relevance to the proposal, Core Strategy policy CS6.2 (Dwelling mix and type) states:

“The provision of purpose-built and/or specialist accommodation for the elderly, in appropriate locations within selected settlements in accordance with CS1, and well served by public transport and local services, will be supported, provided that it does not detract from the character of the surrounding areas or involve the use of land safeguarded for employment purposes where the need for such safeguarding remains. The Council will liaise and negotiate with the County Council Adult Social Care Services how older persons housing needs will be accommodated using findings contained within relevant studies and reports (such as the 2009 Planning4Care Report).”
- 5.4. And Policy CS9.1 (Social and community infrastructure) makes clear that the Core Strategy seeks to improve the health and wellbeing of all residents, through, amongst other things:

“Meeting needs and requirements associated with residential care housing, extra care housing and other types of housing for older people as identified in relevant reports and studies (for example the 2009 Planning4Care Report).”
- 5.5. Paragraph 001 of the Government’s Planning Practice Guidance on “Housing for older and disabled people” in unequivocal in its message that:

“The need to provide housing for older people is critical.”

5.6. The Government Guidance recognises retirement living, the product proposed in this application, as one of a number of types of specialist housing designed to meet the diverse needs of older people.

Existing use

5.7. The proposal site forms part of an existing employment site (Mintsfeet, Kendal) as defined on the South Lakeland Local Plan policies map and is currently safeguarded for employment use purposes. Any proposal for development of such a site needs to comply with the provisions of Policy LA1.5. It is understood the existing current uses on the site will be re-located to a site outside of the District. The current uses are defined as sui-generis, and do not fall within the ‘employment’ use definition category (B2 and B8). The site is located in an area with a mix of uses, including community, recreation, commercial, transport, employment and residential in a prominent gateway location into the town centre. It’s appropriateness for employment related B2 and B8 uses may be considered constrained in this respect, given the amenity sensitivities such uses may introduce with adjacent existing uses and the site’s prominent location. Careful consideration needs to therefore be given to balancing the need to promote a mix of uses in the area that help sustain the vitality of the town whilst also supporting development that sits well with existing uses and can enhance the appearance of this key gateway location into the town and meet other needs.

5.8. Whilst the proposal will result in the loss of an ‘employment generating use’, it is considered, the site’s proximity to the town centre, public transport provision and nature of uses surrounding it, makes it in principle in a general sustainability context an appropriate location for a range of other non-employment uses including residential. The site therefore lends itself to a range of mix of uses including element of commercial/employment along with non-employment uses.

5.9. Policy DM24 specifies the need to ensure proposals do not prejudice the regeneration / redevelopment of any identified opportunity sites (reference to the Kendal Masterplan (The Kendal Town Strategy). It is important to take account of the Kendal Town Centre Strategy 2020 as a material consideration and ideas set out in the Kendal Vision document (March 2020) in this context. Both identify the site as forming part of an ‘opportunity area’ for a mix of uses. The Vision document identifies the site for a mix of housing.

Habitat creation, urban greening and climate change.

5.10. Principle 9 in Policy DM2 (Achieving Sustainable High Quality Design) of the DMDPD states:

“New development should incorporate measures that support and enhance habitat creation and urban greening ensuring that provision reflects the local biodiversity

evidence base and reduces the factors contributing to, and responds to the effects of climate change.”

- 5.11. The policy cross refers to Appendix 1 in the DMDPD, which lists seven “measures that should be considered.” Where applicable in this case, these measures are discussed further under subsequent headings in this report.

Affordable housing

- 5.12. Core Strategy policy CS6.3 (Provision of affordable housing) states that:

“On all schemes of nine or more dwellings in the Principal/Key Service Centres [...] no less than 35% of the total number of dwellings proposed [shall be] affordable.”

- 5.13. The policy also acknowledges that:

“Exceptionally, a lower requirement for affordable housing will be acceptable where there is clear evidence that it would make the development unviable.”

- 5.14. Paragraph 65 of the NPPF states that:

“Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership [...]”

- 5.15. However, it acknowledges a number of exemptions to this requirement, including development which, as in this case:

“[...] provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students)”

- 5.16. Where an applicant considers that the provision of affordable housing would render a development unviable then the Core Strategy clearly places the onus on them to make the case. This is consistent with the Government’s more general Planning Practice Guidance on Viability, which states (in paragraph 008) that:

“Where a viability assessment is submitted to accompany a planning application this should be based upon and refer back to the viability assessment that informed the [development] plan; and the applicant should provide evidence of what has changed since then.

“The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and viability evidence underpinning the plan is up to date, and site circumstances including any changes since the plan was brought into force, and the transparency of assumptions behind evidence submitted as part of the viability assessment.”

- 5.17. Paragraph 007 of this Guidance describes some of the circumstances in which viability assessment might be justified, including:

“[...] where particular types of development are proposed which may significantly vary from standard models of development for sale (for example build to rent or housing for older people)”

- 5.18. This is repeated in paragraph 015 of the Government’s general Planning Practice Guidance on “Housing for older and disabled people”.
- 5.19. The viability assessment currently underpinning the council’s development plan is the “South Lakeland Development Management Policies DPD and CIL Viability Assessment” (“The Local Plan Viability Assessment”), produced by Aspinall Verdi and published in September 2017. This is available online and is referred to on a number of occasions in the following discussion.
- 5.20. Their case was set out initially in an Financial Viability Assessment dated December 2020. This document, together with all of the others referred to in this section of the report, are available to view in full online.
- 5.21. As is usual in these circumstances the applicant’s viability statement was subjected to independent review. In this case by Aspinall Verdi Financial Viability Assessment dated February 2021.
- 5.22. All of the viability appraisals/ reviews available in this case employ the same standardised approach set out in the Government’s Planning Practice Guidance. Nevertheless, even within the two separate reviews that we have commissioned there are some differences of opinion. It is important to stress that Aspinall Verdi’s conclusions should be read as recommendations. Nor are they determinative. They are material considerations to be weighed in the overall planning balance.

Land value

- 5.23. It is helpful in this case to begin with a discussion about land value: the minimum price at which the site can be reasonably assumed to sell for the purposes of the viability appraisal.
- 5.24. Paragraph 013 of the Government’s Planning Practice Guidance on viability states:
- “To define land value for any viability assessment, a benchmark land value (BLV) should be established on the basis of the existing use value (EUUV) of the land, plus a premium for the landowner. The premium for the landowner should reflect the minimum return at which it is considered a reasonable landowner would be willing to sell their land. The premium should provide a reasonable incentive, in comparison with other options available, for the landowner to sell land for development while allowing a sufficient contribution to fully comply with policy requirements. Landowners and site purchasers should consider policy requirements when agreeing land transactions. This approach is often called ‘existing use value plus’ (EUUV+).”

5.25. It is clear from the Government’s Planning Practice Guidance that using BLV as the basis of concluding a viability appraisal is regarded as best practice and the actual price paid (or to be paid) for land is largely irrelevant. In fact, as a warning to developers, the Guidance stresses in several places that:

“Under no circumstances will the price paid for land be a relevant justification for failing to accord with relevant policies in the plan.”

5.26. In other words, the consideration of viability in the planning process is not a means by which developers can attempt to obtain compensation for poor commercial decisions.

5.27. There is a significant difference between the BLV presented by Alder King (AK) and Aspinall Verdi (AV), Alder King presenting a figure £227,192 higher than Aspinall Verdi to show that the development would be unviable with affordable housing contributions.

5.28. As further analysis, Alder King has supplied an updated appraisal (27 July 2021) in which “on a without prejudice basis [BLV] been reduced to £562,808 [...] for illustrative purposes.” This reduced BLV was as recommended by AV in their viability assessment, based on EUV plus 5% Premium. At this reduced figure there is still a significant negative deficit, rendering the development unviable with contributions towards affordable housing.

5.29. The key areas of difference between Alder King and Aspinall Verdi are discussed in detail below. It is important to restate at this point that the onus is on the applicant to provide evidence to demonstrate how the relevant assumptions in The Local Plan Viability Assessment may be inapplicable in this case. Having said that, it is equally important that where the applicant has provided evidence, we weigh it carefully in the balance.

Contingency

5.30. The Government’s Planning Practice Guidance on viability acknowledges (paragraph 012) that when undertaking a viability assessment:

“ ... explicit reference to project contingency costs should be included in circumstances where scheme specific assessment is deemed necessary, with a justification for contingency relative to project risk and developers return.”

Alder King have factored in a contingency cost of 5%, compared to Aspinall Verdi’s 3% that appears in The Local Plan Viability Assessment.

5.31. However, the Land Allocations DPD Viability Study April 2013 (and the annexed South Lakeland CIL Viability Study), where, in Chapter 7 (Appraisal Assumptions – Development Costs) there is the statement (paragraph 7.25) that:

“For previously undeveloped and otherwise straightforward sites we would normally allow a contingency of 2.5% with a higher figure of 5% on more risky types of development, previously developed land and on central locations. So the 5% figure

was used on the brownfield sites and the 2.5% figure on the remainder.”

- 5.32. Moreover there are a number of appeal decisions where a figure of 5% for contingency costs has been accepted in respect of recent approved and comparable schemes. In some cases these decisions cite other appeals as a precedent.

Professional fees

- 5.33. The Government’s Planning Practice Guidance on viability acknowledges (paragraph 012) that when undertaking a viability assessment costs include:

“[...] professional, project management, sales, marketing and legal costs incorporating organisational overheads associated with the site.”

Alder King have factored in a figure of 10% for professional fees, compared to Aspinall Verdi’s 8%.

- 5.34. SLDC’s Land Allocations DPD Viability Study from April 2013, which states (at paragraph 7.23) that:

“For residential development we have assumed professional fees amount to 10% of build costs in each case. This is made up as follows:

Architects	6%
QS and Costs	0.5%
Planning Consultants	1%
Others	2.5%”

Figures of 10% has been accepted on previous similar schemes.

Marketing and Sales Agents Fees

- 5.35. As mentioned above, the Government’s Planning Practice Guidance on viability acknowledges (paragraph 012) that when undertaking a viability assessment costs include:

“ .[...] professional, project management, sales, marketing and legal costs incorporating organisational overheads associated with the site.”

- 5.36. Further information was requested form the applicant on this point, further information was provided on 27th July 2021.

- 5.37. Further details of comparable schemes in the North West showed an average marketing costs of 6.1% across the schemes. In addition to details of schemes in London, South East and Midlands market, also showing average marketing costs of above 5%.

- 5.38. It was also noted from the applicants that Aspinall Verdi commented the following on their assessment of a comparable scheme in Basingstoke, April 2021:

“From our experience of reviewing viability assessments, the Appellant’s adopted allowances are considered to be at the higher end of the typical range. Marketing fees are generally 0.5 - 1.0% and agent fees between 1.0 – 1.5%. Sales agent fees are either costed on a £ / unit allowance of up to c. 0.25% of Gross Development Value (GDV). Generally, gross disposal costs amount to between 3-5% on GDV. The Appellant’s equivalent allowance of 5.1% therefore exceeds the upper-end of this range.

We note, however, that marketing costs for retirement living schemes are usually higher than market sale housing. On this basis, we have assumed the same disposal costs as the Appellant in our appraisals.”

- 5.39. Furthermore, they also highlights what it considers to be another inconsistency in AV’s position, referring again to the recent “Plan Viability & CIL Review Study” undertaken for Babergh & Mid Suffolk District Councils where in the “Appraisal build cost inputs & assumptions” AV lists the marketing and promotion costs of elderly accommodation at 5% of market value, with the additional comment that “Comparable scheme analysis shows higher costs over ‘general needs market housing’”.

Profit

- 5.40. In answer to the question: How should a return to developers be defined for the purpose of viability assessment? - the Government’s Planning Practice Guidance on viability states:

“For the purpose of plan making an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies. Plan makers may choose to apply alternative figures where there is evidence to support this according to the type, scale and risk profile of planned development.”

- 5.41. The Local Plan Viability Assessment assumes a baseline profit of 20% for private housing and 6% for affordable housing, leading to a blended rate of 17.5% on schemes with a policy-compliant mix. This was increased from an initial suggestion of 17.5% and 6% (blended 15%) following industry consultation.
- 5.42. Alder King have proposed a profit of 20%, however Apsinall Verdi challenge this assuming a figure of 17.5%.
- 5.43. The basis of AV’s point is that if the applicant cannot deliver a Residual Lane Value (RLV) that exceeds the BLV, and/or it cannot deliver a policy-compliant percentage of affordable housing then it should not expect a profit margin of 20%. The former might be true; the applicants may ultimately have to trim their expectations of profit in order to lift the RLV to a level where the current landowner is prepared to sell the site. That will be a negotiation separate from the planning process. But AV’s latter point does not automatically follow. If a 20% profit margin can be justified in its own terms then the fact that it may result in a reduced percentage of affordable housing (or none at all in this case) is not, in itself, a reason to refuse planning permission. To

pursue that line of argument risks no development at all, which is not the ultimate objective of viability assessment for planning purposes. It may seem unjust that a developer can expect a profit of 20% having provided no affordable housing at all, but that is always a potential outcome using the standardised approach to viability assessment set out in the Government's Planning Practice Guidance.

- 5.44. It should also be noted that 20% accords with the baseline figure in The Local Plan Viability Assessment.
- 5.45. In addition, Government's Planning Practice Guidance on Viability and on "Housing for older and disabled people" acknowledges that the applicant's proposals fall into a category that "may significantly vary from standard models of development for sale", bringing a greater risk.
- 5.46. There are a large number of comparable developments submitted by the applicant or Churchill Homes, and approved (or pending approval) within the last three years, where a 20% developer return has been accepted as appropriate by the local planning authority concerned. The issue of profit margin was the main issue in an appeal in Sutton (reference; APP/P5870/W/16/3159137, where the appellant adopted a developer profit of 20% of the Gross Development Value (GDV) to their viability assessment of the level of affordable housing contribution which should be applied. The Council considered it should be 17.5%. However the inspector after considering a number of other similar appeals concluded that *"in the circumstances of this case, a profit of 20% is not unreasonable or excessive and, in accordance with the Framework, would represent a competitive return to attract a willing developer. Accordingly, it can be used in an assessment on viability in this case."*

Affordable housing – conclusions

- 5.47. The viability assessment underpinning the current development plan makes certain assumptions about gross development value and costs in its expectation of residential sites across the District achieving a policy-complaint percentage of affordable housing. If an applicant considers that those assumptions are inapplicable to a particular site then it is for them to provide the evidence.
- 5.48. In this case, the applicants have provided an "Affordable Housing and Viability Statement" which concludes that the particular requirements of retirement living development combined with the exceptional technical challenges presented by this site mean the site is unable to provide any affordable housing at all.
- 5.49. The applicant has provided considerable evidence to demonstrate that these baseline assumptions are incorrect. It has provided evidence from its experience with similar developments elsewhere, corroborating appeal decisions, and examples of Aspinall Verdi having been inconsistent in its arguments. We have nothing substantive to counter this evidence, which suggest that we would be in a very weak position to defend an appeal were this application to be refused on the grounds of viability and lack of affordable housing.

5.50. It is disappointing that this site is unable to deliver the 35% affordable housing that we would normally expect as a minimum. However, the applicants have submitted clear evidence that this level of provision would make the scheme unviable, which, by extension, makes it policy complaint. And we can take some comfort from the fact that, although the development is not providing affordable housing, it is, nevertheless, providing specialist elderly accommodation and thereby meeting another of the sectoral housing pressures bearing on the District. In this case the provision of a significant level of specialist elderly accommodation outweighs the lack of affordable housing.

Accessible and adaptable homes

5.51. Policy DM11 of the DMDPD requires all new homes to meet the optional Building Regulations Requirement M4(2): Category 2 – Accessible and Adaptable Dwellings and, on schemes of over 40 dwellings, for 5% of the units to meet the Building Regulations M4(3) wheelchair adaptable standards. This will be secured by a condition in this case.

Designing out crime

5.52. DMPDP policy DM2 (Achieving Sustainable High Quality Design) expects, amongst other things, that development proposals should create and maintain safe and secure environments through designing out crime and designing in community safety.

5.53. The Community Safety Unit with Cumbria Police has offered a number of comments on crime prevention. For the most part these relate to matters that are beyond the control of the local planning authority, but they have been passed on via the applicant's agent. The deep recess at the window between the refuse store and apartment 13 has been removed as part of the amended plans submission.

Contributions towards health

5.54. The NHS Morecambe Bay Clinical Commissioning Group has lodged an objection to the proposal on the strength of its potential impact upon local health services. The objection is one of a number that CCG has lodged in respect of major residential developments across the District. In this case the CCG has explained that its objection can be overcome by a financial contribution of £15,159 towards the reconfiguration of a named local health practices.

5.55. For a contribution of this nature to be justified it would have to meet the requirements of Regulation 122 of the CIL Regulations 2010, which states that planning obligations can only be imposed where they are:

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development; and
- c) Fairly and reasonably related in scale and kind to the development.

5.56. In this case, and in all of the other recent cases where the CCG has made similar requests for funding, the arguments being advanced do not fulfil the Regulation 122 criteria; they are couched in terms of a general overview of practice capacity considerations, rather than a detailed analysis of the impacts of the development concerned. The CCG has been advised of this. It has also been advised to engage with the ongoing local plan review to consider whether contributions could be incorporated into new/updated land allocations and/or dealt with through the Community Infrastructure Levy.

Flood risk

5.57. The bulk of the application site lies within Flood Zone 2, which is at the highest risk of river flooding.

5.58. Paragraph 159 of the NPPF establishes the broad principle that:

5.59. “Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.”

5.60. To this end, Core Strategy policy CS8.8 (Development and Flood Risk) expects most new development to be located in flood risk zone 1. And it goes on to state that development within the Environment Agency’s flood risk zones 2, 3a and 3b will only be acceptable when it is compatible with national policy and when the Sequential Test and the Exception Test, where appropriate, have been satisfied. This is irrespective of any protection afforded by flood defences.

5.61. The reference to national policy takes us to the NPPF and the government’s associated Planning Practice Guidance (PPG). Paragraph 162 of the NPPF establishes that:

“The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.”

Sequential Test

5.62. Applying the Sequential Test to a specific planning application means that if, having first established an area of search within which it would be practicable for the proposed development to be located, there are other reasonably available sites at a lower risk of flooding than the one being proposed, then the application should not be permitted.

5.63. Having said that, it should also be noted that paragraph 033 of the government’s Planning Practice Guidance on Flood risk and coastal change states that:

“When applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken.”

- 5.64. In other words, the Sequential Test does not have to be applied slavishly, a common sense approach is called for.
- 5.65. It is for the “developer [to] justify with evidence to the local planning authority what area of search has been used when making the application”. In this case that evidence is set out in a Sequential and Exception Test Statement supplied by the applicant’s agent in December 2020. This can be viewed in full online.
- 5.66. The submitted Sequential Test Statement examines 2 sites in Flood Zone 1 taken from the Councils Strategic Housing Land Availability Assessment. Both sites were rejected as being sequentially preferable for reasons including: too remote from services and community facilities, no clear access route, covered in mature trees and dissected by a ‘Main River’ watercourse. The document concludes “it is evident that there are no sites within Flood Zone 1 which provide the same development opportunities as the application site.” This is not an unreasonable conclusion in the context of the evidence provided.

Exception Test

- 5.67. Where, as in this case, a proposal passes the Sequential Test, consideration then turns to the Exception Test – whether there are any special circumstances that would justify development in an area at high flood risk.
- 5.68. For the Exception Test to be passed it should be demonstrated that:
- a. the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
 - b. the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall
- 5.69. Both elements of the exception test should be satisfied for development to be permitted.

Wider sustainability benefits

- 5.70. There a number of compelling arguments that can be advanced in this case. First, the site is classed as previously-developed, which is nearly always preferable as a location for development than greenfield land. Second, the site occupies a very accessible location, close to the centre of the largest settlement in the District. This makes it highly sustainable. And third, linked to the previous point, it is particularly well-suited to retirement living.

Scheme lifetime

- 5.71. Paragraph 167 of the NPPF is clear that development should only be allowed in areas at risk of flooding where, in the light of a site-specific flood-risk

assessment, five specific criteria are met. Meeting those criteria in this case will ensure that the second branch of the Exception Test is satisfied.

5.72. Two documents submitted by the applicant are relevant to this issue: a Flood Risk Assessment (FRA) and a Surface Water Management Strategy. Each of the criterion in paragraph 167 of the NPPF is now examined in the context of both documents.

a. Within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location

5.73. All of the application site is within Flood Zone 2. There is no practicable means of reducing flood risk by reconfiguring the development of the site.

b. The development is appropriately flood resistant and resilient

5.74. All of the habitable accommodation within the development will be set above 47.90m AOD, which is above the 1 in 1000 year flood level (47.24m AOD).

c. It incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;

5.75. Core Strategy policy CS8.8 acknowledges the risk of flooding from a variety of sources, including surface water. The policy states that all new development will only be permitted if it can be demonstrated that (amongst other things): surface water is managed in a sustainable way.

5.76. This has been reinforced by DMDPD policy DM1 (General Requirements for all development) which expects all new development to be provided with the necessary infrastructure for dealing with surface water disposal.

5.77. The stated purpose of DMDPD policy DM6 (Flood Risk Management and Sustainable Drainage Systems) is “[to] ensure existing and new development is not exposed to flood risk and to prioritise the promotion of Sustainable Drainage Systems.” To that end it states that:

“Development proposals should include the use of appropriate sustainable drainage systems which are designed to control surface water run off close to where it falls and mimic natural drainage systems as closely as possible.”

5.78. Furthermore, the policy states that:

“Surface water should be managed at the source, with reduced transfer and discharge elsewhere.”

5.79. And, consistent with the Government’s Planning Practice Guidance, the policy expects surface run off to be discharged as high up the following hierarchy of drainage options as reasonably practicable:

- into the ground (infiltration at source);
- to a surface water body;

- to a surface water sewer, or other suitable surface water drainage system;
- to a combined sewer.

The drainage strategy proposes to intercept surface water generated by the impermeable surfacing via a series of 150mm diameter surface water sewers. Surface water will be discharged to the 675mm diameter public surface water sewer located within Shap Road to the east of the site.

Surface water will be discharged at a restricted rate of 33 l/s with attenuation provided on site. With a restricted discharge rate of 33 l/s, 61m³ of attenuation storage volume will be required and provided via the use of a geo cellular attenuation tank for storm events up to and including the 1 in 100 (1%) Annual Probability plus 40% climate change event. As such, there will be no increased flood risk to external receptors as part of the development proposals.

Both United Utilities and the LLFA note that whilst they do not raise objections, and are happy with the submitted FRA, insufficient information on the detail of this drainage design has been submitted at this stage. Although the proposed paving is an efficient SUDS technique and should be possible to meet the requirements within the proposed layout, further calculations, layout details and maintenance scheme should be submitted. This will be secured by condition.

d. Any residual risk can be safely managed

5.80. To minimise the residual risk to users, such as climate change and other uncertainties, proposed finished floor levels will be set above the observed flood levels experienced in December 2015.

5.81. There is also a residual risk of groundwater flooding as a result for the permeable deposits and close proximity to the River Kent. The raising of finished floor levels above existing ground levels will mitigate the risk of any groundwater emergence.

5.82. Observations from the December 2015 flood event indicate that flooding from the local sewerage system occurred as a result of insufficient capacity within the system due to surcharged outfalls. It is therefore recommended that non-return valves are installed within the proposed development.

e. Safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

In the event that safe egress cannot be achieved, safe refuge can be provided within the proposed building. A Flood Warning and Evacuation Plan (FWEP) has been prepared to provide guidance to the occupants on flood risk to the area, sources of information and measures to take in the event of a flood. The FWEP is contained within Appendix H of the FRA.

Flood risk – conclusions

5.83. The evidence shows that the Sequential and Exception Tests are passed in this case. The applicant's FRA demonstrates that the proposed development

will be safe from the risk of flooding during its lifetime and will not increase flood risk elsewhere.

Character of the area

Policy background

5.84. Core Strategy policy CS1.1 (Sustainable Development Principles) expects “[...] high quality, localised and appropriate design [to be] incorporated into all developments to retain distinctive character/sense of place and enhance the existing built environment.” It is a further requirement of Core Strategy policy CS8.10 (Design) that “[the] siting, design, scale and materials of all development should be of a character which maintains or enhances the quality of the landscape or townscape and, where appropriate, should be in keeping with local vernacular tradition.”

5.85. The objective of these policies has been strengthened in the latest version of the NPPF which states at paragraph 126 (under the heading of “Achieving well-designed places”) that:

“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

5.86. DMDPD policy DM1 (General Requirements for all development) states that new development should respond appropriately to the site’s locational context, local and settlement character and distinctiveness; and DMDPD Policy DM2 (Achieving Sustainable High Quality Design) expects new development to make “a positive contribution to the overall sense of place of the locality, informed by the uses and activities around the proposal, the historic context of the site, historic street patterns, plot boundaries, grain/massing, height and materials of nearby development and features.”

5.87. The site also abuts Kendal Conservation Area to the south west.

5.88. Core Strategy Policy CS8.2 (Protection and enhancement of landscape and settlement character) states that “[development] proposals should demonstrate that their location, scale, design and materials will protect, conserve and, where possible, enhance [amongst other things] [the] setting of, and views into and from the AONB, the National Parks, [and] conservation areas [...]”

5.89. Core Strategy Policy CS8.6 is explicit that the Core Strategy supports a number of objectives, including:

“The safeguarding and, where possible, enhancing of historic environment assets, including their characteristic settings and any attributes that contribute to a sense of local distinctiveness. Such assets include listed buildings and features (both statutory and locally listed), conservation areas, scheduled ancient monuments and registered parks and gardens.”

- 5.90. DMDPD Policy DM3 (Historic Environment) expects the setting of all historic assets to be weighed in the planning balance.
- 5.91. Paragraph 194 of the NPPF establishes that in determining applications that are likely to affect heritage assets,:
- “... local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting.
- 5.92. And paragraph 195 requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal, including development affecting the setting of a heritage asset.

Discussion

- 5.93. The application site has a varied locational and historic context, although certain characteristics stand out.
- 5.94. The position of the application site is on the inside of a distinct curve in Shap Road, placing it as a focal point in views along the road when approaching from both directions. Although the existing buildings on site are not prominent, as a result of a slight set back, low height and massing, they do create a screen blocking long views around this bend. Whilst the site is readily visible when approaching on Shap Road from the north, it is only visible when approaching from Kendal Town Centre when within very close proximity, as it is largely blocked by the elevated train line and bridge structures.
- 5.95. The run of small terraced dwellings, to the south east of the site, are relatively modest in size, of a uniform nature, but end with a slightly larger gable corner plot, which is not a Fish and Chip Shop. This corner gable feature has been emulated in the proposed design of this development. Moreover, the cottages are stone front, with pitched slate roofs and simple square fenestration features. Again, the materials, especially the stone, and elements of this style have been replicated in the proposed development.
- 5.96. To the east is a block of less traditional buildings, currently housing commercial premises. These are of little architectural merit with reconstituted stonework and concrete roof tiles.
- 5.97. Opposite the site, to the north east of the A6 is The Duke of Cumberland public house. This building commands a prominent corner plot at the junction between the A6 and the A685. It is of a traditional design and appearance. It utilises off white render, slate roof tiles and more traditional sash windows. A distinct feature of this building is the gable at the main entrance on the south elevation, and adjacent to this a taller section of roof form with a flat face. This is a feature which can be seen on the east elevation of the proposed development, facing Shap Road.
- 5.98. Whilst a number of concerns have been raised with regard to the bulk, scale and height of the proposed development, it is acknowledged that this will be

larger than the existing single storey structures on the site currently. Although presenting 4 storey of accommodation on the north elevation facing the cricket club, the long sweeping elevation adjacent to Shap Road will only have three storeys.

- 5.99. Moreover, the proposal must be considered in relation to its backdrop against Kendal Train Station to the south west. A visualisation has been provided (NW-2468-03-AC-022 – Local Context RevA) which shows the view of the proposed development when stood on the junction of the A685 looking south west towards the trainline. Compared to the height of the raised buildings adjacent to the trainline which define the current skyline, the proposed development would not have a greater impact nor appear out of keeping in this setting.
- 5.100. The flat roof feature in the centre of this elevation, in the contrasting render, significantly breaks up the bulk of the roof form and allows for views through
- 5.101. The application site already marks a distinct break in character when approaching the town centre from the north along Shap Road. Whilst the existing development on the site is rather inconspicuous, the design of the replacement building is predicated on the principle that this existing change in character should be regarded as a gateway, justifying a more prominent structure. This is a sound urban design principle. And in this case it will result in a striking, oblique view of the principal east and south east façade of the building leading your eye around the gentle sweep of Shap Road towards the railway bridge, which denotes a key entrance point to the town and with that a change in character.
- 5.102. Overall, the proposed building is judged to be an appropriate design response to the site, and preserves the setting of the adjoining conservation area. The nature of the accommodation leads to a suitably imposing structure for this gateway location, albeit that the building's scale and mass are cleverly articulated using a local palette of materials and through the use of gables and dormers, all of which are typical of the area. The design also responds sensitively to the limitation imposed by the need to deal with flood risk.

Living conditions

- 5.103. There are a number of existing properties surrounding this site, with the occupants of some having expressed concern about the potential for an adverse impact upon their living conditions.
- 5.104. DMDPD policy DM1 (General Requirements for all development) establishes that, subject to other policies within the development plan, development will be acceptable provided that, amongst other things, it:

“ensures the delivery of acceptable levels of amenity, privacy and overshadowing for existing, neighbouring and future users and occupants through:

- provision of adequate spatial separation distances between existing and proposed properties and buildings; and

- retention and/or provision of adequate public, private and shared spaces and landscaping”

Impacts within the development itself

- 5.105. The majority of the proposed apartments face outwards from the site, the rest have a main aspect into a rear courtyard area. The development is in a ‘V’ shape, with the courtyard getting wider towards the south western boundary of the site, and as such the separation distance of the inward facing apartments also gets wider.
- 5.106. At the widest point the apartments habitable windows are 27m apart, and at the narrowest point the windows are 9m apart. However, taking into account the positioning of the windows and the angles at which the development is positioned, these windows would not benefit from direct views into opposing apartments as they are set off at angle. Moreover, those that are closer together would only benefit from oblique views of the closest windows, insufficient to result in detrimental overlooking impacts. The proposed layout would provide sufficient separation distance between habitable room windows of the apartments and oblique viewing angles so as not to result in significant detrimental overlooking impacts.
- 5.107. At ground floor level, two of the entrances facing into the communal gardens are access points to stairwell, in addition to the home owner’s communal lounge at the north east corner. The site plan shows hedged screening around each of the ground floor apartment patio areas, providing some additional privacy. This will be secured by condition as part of a landscaping plan.
- 5.108. The proposed balconies have been positioned so that views cannot be gained directly into adjacent apartment’s windows. It is acknowledged that there would be shared views of residents outside on their balconies and into the communal garden area, but the nature of the outside space is that it is communal and therefore privacy is not guaranteed.

Impact upon neighbouring development

- 5.109. The application site is located within a relatively detached plot. The northern boundary abuts the Kendal Cricket Club, the eastern boundary abuts the A6 Shap Road/Longpool and the western boundary is adjacent to an access road and the railway line. As such, the site and therefore the proposed building will not be directly adjacent to any existing development, without an intervening feature.
- 5.110. To the south east of the site, on the opposite side of the A6, is a terrace of 11 two storey dwellings. These would be located between 20m (closest point) and 22m (furthest point) from the south eastern elevation of the proposed building. These are the closest buildings to the application site.
- 5.111. The two commercial units to the east of the site, with residential above, would be sited 32m from the development site, with the junction of two roads between them. In addition, the Duke of Cumberland to the north east would be 25m from the site, on the opposite side of the A6 with 3 lanes of traffic in between.

5.112. Whilst the proposed development will be readily visible from the closest buildings as discussed, significant separation distances are retained on all elevations and with all existing buildings. The proposed development will be no closer to the highway than the existing buildings on site. The A6 Shap Road/Longpool is a wide and busy highway, creating a dominant intervening feature between the development and the existing built form. Whilst the proposed development would result in a structure of three and four storey nature, taking into account the positioning of the building, the separation distance, setting and intervening features this would not result in an unacceptable overbearing impact on nearby properties or buildings.

5.113. There are no projecting balconies or designated communal space proposed on the Shap Road elevation of the development, reducing the potential for disturbance or overlooking to existing residents outside of this development.

5.114. Plans and visualisations submitted do show some tree planting, hedging and lawns to the front of all elevations. These will help screen and soften the ground floor appearance of the development, which is most prominent from the pedestrian walkways and ground floor views from adjacent buildings. Suitable landscaping will be secured by condition.

Construction working

5.115. A number of the representations we have received raise concerns about the potential impacts from construction, which is not unusual where development is proposed within such a constrained location.

5.116. The Council's Public Protection Team is recommending a condition requiring a Construction Management Plan (CMP) - addressing issues such as storage of plant and materials, measures to control the emission of dust and dirt, etc. – and a condition limiting construction working hours to 0800 - 1800 Monday to Friday and 0900 – 1300 on Saturdays, with no work on bank holidays. Restrictions of this nature will not eliminate disturbance, but experience suggests that they will offer some amelioration.

Access and parking

5.117. Core Strategy policy CS10.2 (Transport impact of new development) expects "Development [to] be designed to reduce the need to travel and to maximise the use of sustainable forms of transport appropriate to its particular location".

5.118. Policy CS10.2 establishes a number of other criteria aimed at ensuring that new development: (1) provides for safe and convenient access on foot, cycle, public and private transport; (2) is capable of being served by safe access to the highway network without detriment to the amenity or character of the locality; (3) can be accommodated by the existing road network without detriment to the amenity or character of the surrounding area; and (4) incorporates parking standards that are in accordance with any adopted local policy and guidance.

5.119. DMDPD policy DM9 (Parking Provision, new and loss of car parks) expects all developments to have acceptable levels of car, motorcycle and bicycle parking having regard to relevant appropriate guidance, which is currently provided in the Cumbria Development Design Guide.

5.120. Paragraph 110 of the NPPF is clear that in assessing specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

5.121. Significantly, paragraph 111 is unequivocal in stating that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

Discussion

5.122. The application is accompanied by a Transport Statement which emphasises the accessibility of the site to a variety of local services and facilities, making it particularly well suited to the proposed development.

Trip generation

5.123. The Transport Statement assesses trip generation using the existing garage and car showroom as a baseline.

5.124. The applicant’s Transport Statement uses TRICS (Trip Rate Information Computer System database). This is an “industry standard” database of trip rates associated with different types of development and is widely used, and accepted, for transport planning purposes in the United Kingdom, specifically to quantify the trip generation of new developments. The Transport Statement uses the ‘Car Showroom’ category.

5.125. Based upon the existing floorspace of the car showroom (1000 sq. m.), TRICS estimates a total of 150 vehicle trips (arrivals and departures) within the 12 hour period spanning a normal working day, which equates to 12.5 trips per hour. For the baseline office use this includes 10 arrivals and 5 departures during the morning peak and 4 arrivals and 6 departures during the afternoon peak.

5.126. In order to understand the typical trip generation rates likely to be associated with the proposal, the applicants Transport Assessment includes “Traffic Generation at Retirement Living Housing Type Developments” based upon six of its established retirement living developments elsewhere in the country. Analysing

the data collected from these six sites, the Transport Statement estimates that the average daily trip rate per unit is 1.54. Applying this trip rate to the 55 units proposed in the current application gives an overall total of 84 daily movements. This is below the bottom end of the range calculated for the existing use.

Parking

5.127. In accordance with the Cumbria County Council’s Development Design Guide, the site equates the proposal to the “Sheltered housing wardened” category in the Design Guidance, which suggests the following parking requirements:

Residents	Visitors	Disabled	Cycle parking
1 space per 4 units PLUS 1 space per resident staff PLUS access for ambulance	1 space per 5 units	1 space for every 10 spaces	1 space for every 10 spaces

5.128. For the proposed 55 unit scheme this would suggest a requirement for the following:

Residents	Visitors	Disabled	Cycle parking
15 + ambulance	11	3	3

5.129. The proposal exceeds this parking requirement, providing a total of 37 spaces, including three disabled bays sited adjacent to the main entrance block. There is no defined ambulance bay, but the ground floor site plan includes vehicle tracking for a fire tender up to the west access of the building and it can be imagined that, in an emergency, ambulances might also use the main entrance. Cycle parking, we are told, will be provided within a large “buggy store” located within the building itself.

5.130. The applicants have provided further evidence in respect of parking. Evidence has been presented to show that, based upon surveys of six other established retirement living developments operated by the applicants, average demand for parking is 0.474 spaces per unit. Applying those figures to the current scheme, we might expect to see demand for 26 spaces. Actual provision (37 spaces) exceeds these figures.

Access and parking – conclusions

5.131. The proposed development is for a “retirement living” scheme, based upon a model which the applicants have implemented in many other locations around the country, and for which they now have considerable evidence in respect of trip generation and parking demand. Applying that evidence to this case supports the applicant’s assertion that the likely trip generation will be lower than that associated with the lawful use of the site as a car sales garage, and that parking demand will be within the capacity being provided. The local highway authority accepts these conclusions.

5.132. Given the NPPF’s position that planning permission should only be refused where “residual cumulative impacts on the road network would be severe”,

it would be difficult enough to advance a highway objection in this case even if we could demonstrate some adverse impact. The fact that we cannot, coupled with the fact that the applicants have the support of the local highway authority, means that it would be all but impossible to defend a reason for refusal on highway grounds in this case.

5.133. Having said that, the trip generation and parking characteristics presented in this case are clearly particular to the applicant's development model for "retirement living", and would likely be very different if the scheme were proposed as unrestricted housing, which would be within the same use class. Therefore, in order to ensure that the underlying assumptions in the applicant's Transport Statement hold true, it will be necessary to impose an occupancy restriction based upon age. This is normal in these circumstances and the particular condition being recommended mirrors many that have been applied on appeal decisions.

Trees

5.134. A tree survey was undertaken in accordance with the guidance in British Standard BS5837:2012 Trees in relation to design, demolition and construction – Recommendations.

5.135. It noted that a row of leyland cypress are present along the south west boundary, beyond which, but too remote from the site to be of arboricultural interest, are scattered sparse trees of ash and horse chestnut. A small group of low quality Leyland Cypress are present in the central part of the site whilst a hawthorn and two Japanese cherries are located within the public verge off the north east corner.

5.136. All of the trees recorded on or near the site were of fair or poor condition, nor of a significant size. As such it was concluded that "There are no trees within the site worthy of retention at the expense of an efficient redevelopment". Based on the evidence provided, the LPA would not disagree with this.

5.137. Subject to a condition requiring a soft landscaping scheme, to include sufficient planting, to be submitted, the proposed development would be acceptable in this regard.

Biodiversity

5.138. Policy CS8.4 (Biodiversity and geodiversity) includes a statement that:

"All development proposals should:

- Protect, enhance and restore the biodiversity and geodiversity value of land and buildings;
- Minimise fragmentation and maximise opportunities for restoration, enhancement and connection of natural habitats (including links to habitats outside South Lakeland); and

- Incorporate beneficial biodiversity and geodiversity conservation features, including features that will help wildlife to adapt to climate change where appropriate.

“Proposals should particularly seek to contribute towards the UK priority habitats and species in South Lakeland, and any additional Cumbria Biodiversity Action Plan species.”

5.139. Furthermore, DMDPD policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) expects all development proposals to result in environmental net gains for biodiversity, unless it can be demonstrated that this is not possible. The policy reflects the government’s position in paragraph 174 of the NPPF.

5.140. The application is accompanied by a Biodiversity Assessment. This concludes that the existing site was found to comprise of two habitat types, with a baseline of 0 habitat area units, this being an area of hardstanding and 0 terrestrial linear biodiversity units, this being non-native hedge.

5.141. Post-development plans include 1 retained habitat, 0 enhanced habitats and 4 new habitats. The biodiversity assessment concludes that the proposed development will result in a change of 0.15 biodiversity area units and 0.25 linear biodiversity units. Whilst this is a modest increase, it is acceptable.

6.0 Conclusion

6.1. The Porsche Car Showroom and Garage is within the settlement limits of Kendal, one of two Principal Service Centres identified by policy CS1.2 (The Development Strategy) of the Core Strategy as being the focus for the bulk of new housing and employment development. The proposal is for 55 retirement living apartments, one of a number of types of specialist housing recognised as meeting the diverse needs of older people.

6.2. The nature of the accommodation makes it liable to contribute to affordable housing in compliance with Core Strategy policy CS6.3 (Provision of affordable housing). However, in this case, the applicants have submitted compelling evidence that the provision of any affordable housing would render the scheme unviable.

6.3. The bulk of the application site lies within Flood Zone 2, which is at medium risk of river flooding. Nevertheless, the proposed development is judged to pass the required Sequential and Exception Tests, with the proviso that all habitable accommodation is placed no lower than a level of 47.90m AOD. With this restriction the proposal is judged to satisfy the requirements of Core Strategy policy CS8.8 (Development and Flood Risk).

6.4. The application site occupies a prominent position on the entrance to the town along A6 Shap Road/Longpool. It also abuts Kendal Conservation area. The proposed building is judged to be an appropriate design response to the site, including the setting of the adjoining conservation area. The nature of the accommodation leads to a suitably imposing structure for this gateway location, albeit that the building’s

scale and mass are cleverly articulated using a local palette of materials and through the use of gables, all of which are typical of the area. The design also responds sensitively to the limitation imposed by the need to deal with flood risk. Overall, the proposal is judged consistent with the expectations of: (1) Core Strategy policies CS1.1 (Sustainable Development Principles), CS8.2 (Protection and enhancement of landscape and settlement character) and CS8.6 (Historic environment); and (2) DMDPD policies DM1 (General Requirements for all development), DM2 (Achieving Sustainable High Quality Design) and DM3 (Historic Environment).

6.5. The impact of the development upon existing and future residents has been fully assessed. The building will be more imposing than the existing low level car showroom, and there will be an appreciable increased impact on some existing properties. But none of these impacts are judged unacceptable in the context of DMDPD policy DM1 (General Requirements for all development).

6.6. With regards to highway safety matters, this is a “retirement living” scheme, based upon a model which the applicants have implemented in many other locations around the country, and for which they now have considerable evidence in respect of trip generation and parking demand. Applying that evidence to the current application supports the applicant’s assertion that the likely trip generation will be significantly lower than that associated with the lawful use of the site as a car showroom/garage, and that parking demand will be well within the capacity being provided. The local highway authority accepts these conclusions. That being the case, the proposal is judged consistent with the expectations of Core Strategy policy CS10.2 (Transport impact of new development) and DMDPD policy DM9 (Parking Provision).

6.7. Conditions are proposed to secure that the development achieves a net gain in biodiversity – all consistent with DMDPD policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping).

7.0 Recommendation

7.1. The application is recommended for approval subject to the following conditions:

Condition (1): The development hereby permitted shall be commenced before the expiration of THREE YEARS from the date hereof.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Condition (2): The development hereby permitted shall be carried out in accordance with the following approved plans:

NW-2468-AC-003-005-1 Rev C Proposed Site Layout Plan Received 28 May 2021

NW-2468-AC-003-006-1 Rev B Floor Plans 1 of 2 Received 28 May 2021

NW-2468-AC-003-006-2 Rev B Floor Plans 2 of 2 Received 28 May 2021

NW-2468-AC-003-007 Rev B Roof Plan Received 28 May 2021

NW-2468-AC-003-008-1 Rev A Elevations 1 of 2 Received 28 May 2021

NW-2468-AC-003-008-2 Rev B Elevations 2 of 2 Received 28 May 2021

NW-2468-AC-003-023 Site Elevations Received 28 May 2021

REASON: For the avoidance of doubt and in the interests of proper planning.

External materials

Condition (3): External walls and roofs shall be finished in accordance with the materials shown on the approved plans, and in accordance with stone, render and slate specifications that shall first have been submitted to, and approved in writing by, the local planning authority. Notwithstanding any annotations to the contrary on the approved plans, all stone and slate must comprise natural, locally-sourced materials.

REASON: To ensure compliance with: (1) policies CS8.6 (Historic Environment) and CS8.10 (Design) of the South Lakeland Core Strategy; and (2) policies DM1 (General Requirements for all development), DM2 (Achieving Sustainable High Quality Design) and DM3 (Historic Environment) of the South Lakeland Development Management Policies Development Plan Document.

Accessible and adaptable homes

Condition (4): All of the apartments hereby approved shall be constructed to meet the Building Regulations M4(2) standards for accessible and adaptable homes and two of the dwellings shall be constructed to Building Regulations M4(3) wheelchair adaptable standards.

REASON: To secure an appropriate level of compliance with Policy DM11 of the Development Management Policies Development Plan Document.

Broadband

Condition (5): No individual apartment hereby approved shall be first occupied until connected to the necessary infrastructure to enable access to high speed (superfast) broadband.

REASON: To comply with Policy DM8 (High Speed Broadband for New Developments) of the Development Management Policies Development Plan Document.

Highways

Condition (6): Occupation of the apartments (excluding any on-site staff) shall be restricted at all times to people of 60 years of age and above, or those of at least 55 years of age and living with a spouse or partner of 60 years or above.

REASON: To ensure that predicted traffic trip generation rates and parking demand are adhered to, in the interests of ensuring highway safety and to safeguard the amenity of the existing area in accordance with: (1) policy CS10.2 (Transport impact of new development) of the South Lakeland Core Strategy; and (2) policies DM7 (Addressing Pollution, Contamination Impact, and Water Quality) and DM9 (Parking Provision, new and loss of car parks) of the South Lakeland Development Management Policies Development Plan Document.

Condition (7): None of the apartments hereby approved shall be first occupied until the parking, access and manoeuvring areas shown on approved drawing NW-2468-AC-003-005-1 Rev C Proposed Site Layout Plan have been constructed and made available for. Thereafter, all parking, access and manoeuvring areas must be retained as approved for the lifetime of the development.

REASON: To maintain highway safety in accordance with: (1) policy CS10.2 (Transport impact of new development) of the South Lakeland Core Strategy; and (2) policies DM1 (General Requirements for all development) and DM9 (Parking Provision, new and loss of car parks) of the South Lakeland Development Management Policies Development Plan Document.

Condition (8) None of the apartments hereby approved shall be first occupied until the precise details of the location and number of disabled parking bays within the site has been submitted to and approved in writing by the Local Planning Authority. The disabled parking bays shall be provided in accordance with the approved details prior to first occupation of the development.

REASON: To ensure suitable access and parking arrangements for people with disabilities in accordance with Policy DM1 of the Development Management Policies Development Plan Document and Policy CS10.2 of the South Lakeland Core Strategy.

Condition (9) None of the apartments hereby approved shall be first occupied until precise details of a means of access for pedestrians to the south of the site has been submitted to and approved in writing by the Local Planning Authority. The pedestrian access shall be constructed in accordance with the approved details and made available for use prior to first occupation of the development.

REASON: In the interests of highway safety in accordance with Policy DM1 of the Development Management Policies Development Plan Document and Policy CS10.2 of the South Lakeland Core Strategy.

Construction management

Condition (10): No development shall commence until a Construction Transport Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The CTMP shall include:

- details of designated areas for construction vehicle parking, maneuvering, loading and unloading;
- details of storage areas for construction plant and materials;
- details of measures to control the emission of dust and dirt during construction;
- measures to control noise and vibration from plant, equipment and procedures during construction, including from any rock pecking and excavations;
- confirmation of an embargo on the burning of waste material;
- a scheme for recycling / disposing of waste resulting from excavations;
- details of a construction lighting scheme, designed to minimise light spillage from the site boundary;
- procedures for the cleaning of site entrances and the adjacent public highway;
- details of proposed wheel washing facilities;
- procedures for the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;

- management of junctions to and crossings of the public highway including the footway;
- details of any proposed temporary access points (vehicular / pedestrian);
- details of surface water management during the construction phase;
- details of any mitigation needed to prevent interference with public rights of way throughout the duration of the construction phase; and

Thereafter, the construction phase of the development shall proceed in accordance with the approved CTMP.

REASON: In the interests of safeguarding the amenity and ecological interest of the existing area in accordance with: (1) policy CS8.4 (Biodiversity and geodiversity) of the South Lakeland Core Strategy; and (2) policies DM4 (Green and Blue Infrastructure and Open Space) and DM7 (Addressing Pollution, Contamination Impact, and Water Quality) of the South Lakeland Development Management Policies Development Plan Document.

Condition (11): Construction work shall not take place outside the hours of 0800 – 1800 Monday to Friday or 0900 – 1300 on Saturdays, nor at any time on Sunday and bank holidays.

REASON: In the interests of safeguarding the amenity and ecological interest of the existing area in accordance with: (1) policy CS8.4 (Biodiversity and geodiversity) of the South Lakeland Core Strategy; and (2) policies DM4 (Green and Blue Infrastructure and Open Space) and DM7 (Addressing Pollution, Contamination Impact, and Water Quality) of the South Lakeland Development Management Policies Development Plan Document.

Noise

Condition (12): The development shall not proceed except in accordance with the noise assessment prepared by SRL 'Noise and Vibration Assessment for Planning' dated 14/06/2018 and deposited with the Local Planning Authority on 02 December 2020.

The development must ensure that;

- The glazed elements (including the glazing and frame when fitted) of the façade of the building facing Longpool meet the sound insulation value detailed in Table 6 (33dB glazing).

- The glazed elements (including the glazing and frame when fitted) of all other facades of the building are to meet the sound insulation value detailed in Section 4.0 (30dB glazing).
- Plant noise shall be limited to a sound rating level of 35dBL at the façade of the nearest noise sensitive receptor.

All approved control measures shall be implemented prior to first occupation of the building and shall be retained as such thereafter.

REASON: These details are required to be approved before the commencement of development to safeguard the amenity of future occupiers of the site in accordance with Policies DM1 and DM7 of the Development Management Policies Development Plan Document and The National Planning Policy Framework Chapter 2 - Achieving sustainable development, para 8, Chapter 12 - Achieving well-designed places, para 128 and Chapter 15 - Conserving and enhancing the natural environment –para 180.

Condition (13): If residential properties are to be completed and occupied prior to the whole development being finished, a scheme to protect those early occupants from noise and vibration shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation.

REASON: These details are required to be approved before the commencement of development to safeguard the amenity of future occupiers of the site in accordance with Policies DM1 and DM7 of the Development Management Policies Development Plan Document and The National Planning Policy Framework Chapter 2 - Achieving sustainable development, para 8, Chapter 12 - Achieving well-designed places, para 128 and Chapter 15 - Conserving and enhancing the natural environment –para 180.

Land contamination

Condition (14): The remediation scheme shall be implemented in accordance with the approved 'Section 9.6 Phase 2: Ground Investigation Report Dated 18/09/2017 [Produced by Arc Environmental]'. Within 3 months of the completion of measures identified in the approved remediation scheme, a validation report, including the validation criteria detailed in the approved remediation scheme (that demonstrates the effectiveness of the remediation carried out) must be submitted to the Local Planning Authority.

REASON: These details are required to be approved before the commencement of development to prevent harm to human health and the environment in accordance with Policies DM1 and DM7 of the Development Management Policies Development Plan Document and the National Planning Policy Framework - Chapter 15, Conserving and enhancing the natural environment – paras 178 and 179.

Condition (15): In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 14 days to the Local Planning Authority and development must be halted on that part of the site.

An assessment must be undertaken and a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority. The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable.

REASON: These details are required to be approved before the commencement of development to prevent harm to human health and the environment in accordance with Policies DM1 and DM7 of the Development Management Policies Development Plan Document and the National Planning Policy Framework - Chapter 15, Conserving and enhancing the natural environment – paras 178 and 179.

Flood risk

- Condition (16):
- a) The development shall not be occupied until a surface water drainage scheme, based on the hierarchy of drainage options in the NPPG with evidence of an assessment of the site conditions have been submitted to and approved in writing by the Local Planning Authority.
 - b) The surface water drainage scheme must be in accordance with the Non-statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. In the event of surface water draining to the public surface water sewer, the pass forward flow rate to the public surface water sewer must be restricted to max 33l/s for any storm event.
 - c) The development shall not be occupied until the approved [surface water management works have been provided on the site to serve the development.
 - d) Before any dwelling is occupied, a validation report (that demonstrates that the drainage scheme has been carried out in accordance with the approved plan) must

be submitted to the Local Planning Authority. The approved works shall be retained as such thereafter.

REASON: To ensure adequate provision is made for the management of surface water in accordance with Policies DM1, DM6 and DM7 of the Development Management Policies Development Plan Document and Policy CS8.8 of the South Lakeland Core Strategy.

Condition (17): The development shall not proceed except in accordance with the flood mitigation measures as described in Flood Risk Assessment Project Ref:41671/4001 RevA July 2018 prepared by Stantec on behalf of McCarthy and Stone. and deposited with the Local Planning Authority on 02 December 2020.

REASON: To ensure adequate provision is made for the management of surface water in flood events in accordance with Policy DM6 of the Development Management Policies Development Plan Document and Policy CS8.8 of the South Lakeland Core Strategy.

Landscaping

Condition (18): No development shall commence until a soft landscaping scheme has been submitted to, and approved in writing by, the local planning authority. The scheme shall include details of: (i) planting plans; (ii) existing vegetation to be retained; (iii) written specifications and schedules of proposed plants noting species, planting sizes and proposed numbers/densities; (iv) an implementation timetable; and (v) a schedule of landscape maintenance proposals for a period of not less than five years from the date of completion of the scheme. Thereafter, the approved landscaping scheme shall be implemented and maintained in accordance with the agreed details and timetables.

REASON: To safeguard and enhance the character of the area in accordance with policy LA1.3 of the South Lakeland Land Allocations Development Plan Document and policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) of the South Lakeland Development Management Policies Development Plan Document.

Biodiversity

Condition (19): The development shall commence in strict accordance with the recommendations in the approved Biodiversity Assessment Dated May 2021 by RSK Biocensus Ltd. Thereafter,

the net gain of the development shall be maintained for the lifetime of the development.

REASON: To meet the requirements of: (1) policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) of the of the South Lakeland Development Management Policies Development Plan Document; (2) paragraph 170 of the National Planning Policy Framework.; and (3) section 40 of the Natural Environment and Rural Communities Act 2006.

Lighting

Condition (20): None of the apartments hereby approved shall be first occupied until any required external lighting has been installed in accordance with a scheme that shall first have been submitted, and approved in writing by, the local planning authority. The scheme shall include a layout plan with beam orientation and a schedule of light equipment proposed. The approved scheme shall be installed and fully assessed by a suitably qualified individual when operational to ensure no light creep. Thereafter, the lights must be permanently maintained and operated in accordance with the approved details.

REASON: To mitigate the potential impacts on residential amenity, the environment and protected species, all in accordance with policy CS8.4 (Biodiversity and geodiversity) of the South Lakeland Core Strategy.

Sustainable construction

Condition (21): The development shall proceed in accordance with the document 'Applicant's Comments upon the 7 key points set out in Appendix 1 of the SLDC DM Policies DPD' submitted to the Local Planning Authority on 29 July 2021 incorporating as many of the provisions within the "List of Measures that support and enhance habitat creation, urban greening and respond to the effects of climate change" contained in Appendix 1 of the Development Management Policies Development Plan Document as is reasonably practicable in the circumstances.

REASON: To incorporate measures that support and enhance habitat creation and urban greening ensuring that provision reflects the local biodiversity evidence base and reduces the factors contributing to, and responds to the effects of climate change, in accordance with policy DM2 (Achieving Sustainable High Quality Design) of the

South Lakeland Development Management Policies Development
Plan Document.

